

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SABRINA JONES-KENSON,

Plaintiff,

v.

LYONS GLENN, LCC,

Defendant.

NO. CV-05-0063-EFS

**ORDER DISMISSING CASE FOR LACK
OF SUBJECT-MATTER JURISDICTION**

On April 29, 2005, Plaintiff Sabrina Jones-Kenson, acting *pro se*, filed a Second Amended Complaint ("Complaint"), (Ct. Rec. 12). In her Complaint, Plaintiff asserts claims against her landlord, Defendant Lyons Glenn, LCC, for injuries she suffered after Plaintiff's son's cat bit her on the arms, hands, and fingers, while the cat was at Plaintiff's home and consequently on Defendant's property. *Id.* at 2. Plaintiff believes Defendant is liable for her injuries because the cat was brought onto the property to catch rats and mice she had seen in her home, and which exterminators hired by Defendant were unable to locate or remove. *Id.* In bringing her suit, Plaintiff asserts the Court has jurisdiction under 28 U.S.C. § 128. However, because the Court does not in fact have subject-matter jurisdiction over this matter, it must be dismissed.

1 "It is fundamental to our system of government that a court of the
2 United States may not grant relief absent a constitutional or valid
3 statutory grant of jurisdiction." *United States v. Bravo-Diaz*, 312 F.3d
4 995, 997 (9th Cir. 2002). Thus, an action may not be maintained in a
5 federal court if that court has not been granted jurisdictional authority
6 to hear the issues raised in that action and it must be dismissed.
7 Federal district courts "are presumed to lack jurisdiction in a
8 particular case unless the contrary affirmatively appears." *Stock West,*
9 *Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989). For
10 this reason, the basis of subject-matter jurisdiction must be
11 affirmatively alleged in complaints filed by plaintiffs. Specifically,
12 complaints must contain a "short and plain statement of the grounds upon
13 which the court's jurisdiction depends" FED. R. CIV. P. 8(a).

14 Generally, federal district courts have subject-matter jurisdiction
15 over two types of cases. First, "[t]he district courts shall have
16 original jurisdiction of all civil actions arising under the
17 Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.
18 This statute provides for what is known as "federal question
19 jurisdiction." Second, "[t]he district courts shall have original
20 jurisdiction of all civil actions where the matter in controversy exceeds
21 the sum or value or \$75,000, exclusive of interest and costs, and is
22 between (1) citizens of different States" 28 U.S.C. § 1332(a)(1).
23 This statute provides for what is known as "diversity jurisdiction."

24 In her Complaint, Plaintiff claims this Court has jurisdiction under
25 28 U.S.C. § 128, which states in part that "Washington is divided into
26 two judicial districts to be known as the Eastern and Western Districts

1 of Washington." Because 28 U.S.C. § 128 merely divides Washington into
2 two judicial districts, it is an insufficient basis for subject-matter
3 jurisdiction in this or any other matter. Additionally, nowhere in
4 Plaintiff's Complaint has any right under the United States Constitution,
5 a federal law, or a United States treaty been either expressly or
6 impliedly asserted. Moreover, Plaintiff does not establish a diversity
7 of citizenship between herself and Defendant Lyons Glenn, LLC. Instead,
8 and to the contrary, Plaintiff indicates that both she and Defendant are
9 citizens of Washington, with Plaintiff residing in Spokane and Defendant
10 residing in Tacoma. Thus, Plaintiff has not demonstrated any basis for
11 subject-matter jurisdiction by way of a federal question or diversity
12 jurisdiction.

13 Accordingly, because the Court has no authority to hear the claims
14 asserted by Plaintiff, the Court dismisses Plaintiff's complaint with
15 leave to renew should she be able to assert claims this Court would have
16 subject-matter jurisdiction over. **IT IS HEREBY ORDERED**, Plaintiff's
17 Second Amended Complaint, (Ct. Rec. 12), is hereby **DISMISSED WITHOUT**
18 **PREJUDICE** for lack of subject-matter jurisdiction.

19 **IT IS SO ORDERED.** The District Court Executive is directed to
20 (A) Enter this Order;
21 (B) **Enter judgment** accordingly;
22 (C) Provide a copy to the Plaintiff, **Ms. Sabrina Jones-Kenson,**
23 **614 W. Sinto Avenue, #2, Spokane, WA 99201;**

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1 (D) Provide a copy to Defendant, **Lyons Glenn, LLC, 202 North**
2 **Tacoma Avenue, Tacoma, WA 98403;** and

3 (E) **CLOSE THIS FILE.**

4 **DATED** this 28th day of June 2005.

5
6 S/ Edward F. Shea

EDWARD F. SHEA

United States District Judge

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